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## VIA ECF

Honorable Gregory H. Woods  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**Re: *Zivkovic v. Laura Christy LLC, et al*, 17 CV 553 (GHW)**

Dear Judge Woods,

We represent Plaintiffs and the Fed. R. Civ. P. Rule 23 Subclasses in the above-referenced matter. We write to respectfully request that the Court include certain language in its final jury charges in this case. Specifically, we request that the Court include a charge that informs the jury that an employer may not evade liability by claiming that it delegated its responsibility to pay its employees to another person or entity. We propose the following language:

Employers have a duty to pay their employees in accordance with the law. This obligation is absolute and employers may not transfer this duty to anyone else.

This language is supported the following authority. *See, e.g., Lahcen v. Kiran Park Newsstand Inc.*, No. 11 CV 5998 (VB), 2014 U.S. Dist. LEXIS 112419, at \*8 (S.D.N.Y. Aug. 7, 2014) (explaining (1) that the “FLSA assigns an employer the non-delegable duty to make and maintain accurate records of the time worked by its employees, and to pay employees for such work[.]” and (2) the “*same standard applies under the NYLL*” (quoting *Vasquez v. NS Luxury Limousine Serv.*, No. 18-cv-10219 (AJN), 2021 U.S. Dist. LEXIS 63882, at \*36 (S.D.N.Y. Mar. 31, 2021) (emphasis added). *See Caserta v. Home Lines Agency, Inc.*, 273 F.2d 943, 944, 946 (2d Cir.1959) (Friendly, J.) (holding that an employer’s obligation to pay overtime wages is “absolute” and the employer’s “statutory burden of [...] appropriate payment” may not be transferred); *accord* NYLL § 652 (“*Every employer shall pay to each of its employees for each hour worked a wage of not less than [...]*”) (emphasis added); N.Y. Comp. Codes R. & Regs. tit. 12, § 146-1.4 (“*An employer shall pay an employee for overtime at a wage rate of 1 1/2 times the employee's regular rate for hours worked in excess of 40 hours in one workweek.*”) (emphasis added).

We thank the Court for its attention to this matter.

Respectfully submitted,

**JOSEPH & KIRSCHENBAUM LLP**

/s/ Josef Nussbaum

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cc: All Counsel of Record (via ECF)